

2003 DRAFTING REQUEST

Bill

Received: **08/05/2003**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeff Fitzgerald (608) 266-2540**

By/Representing: **Mike Welsh**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**
Public Util. - misc.

Extra Copies: **RJM**

Submit via email: **YES**

Requester's email: **Rep.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to: **mike.welsh@legis.state.wi.us**
robert.marchant@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Retention of energy conservation funding by public utilities

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	mkunkel 08/06/2003	csicilia 08/07/2003 csicilia 08/08/2003	jfrantze 08/08/2003	_____	sbasford 08/08/2003		State

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/2	mkunkel 08/20/2003 lemery 08/26/2003	csicilia 08/21/2003	rschluet 08/21/2003	_____ _____ _____ _____	sbasford 08/21/2003 lemery 08/26/2003		State
/3	mkunkel 09/10/2003	csicilia 09/10/2003	jfrantze 09/10/2003	_____ _____	mbarman 09/10/2003		State
/4	mkunkel 09/12/2003	csicilia 09/15/2003	jfrantze 09/15/2003	_____ _____	lemery 09/15/2003		State
/5	mkunkel 09/29/2003	csicilia 09/29/2003	jfrantze 09/29/2003	_____ _____ _____	lnorthro 09/29/2003	sbasford 10/07/2003 sbasford 10/07/2003	

FE Sent For:

<END>

AA
Intro.

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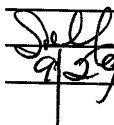
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15 gjs 9/29
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13 g's 9/10
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<END>

resubmitted
for email

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*Computer problem
caused having
to redo 1/2 version
in system.*

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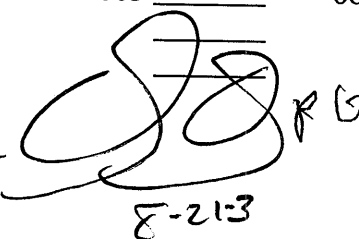
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03


8-213

08/08/2003 01:00:01 PM

Page 2

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/?	mkunkel	1 js 8/7	8/8	Self 8/8			
		03					

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 04 AUG 03

Legislator, agency, or other person requesting this draft REP. FITZGERALD

Person submitting request (name and phone number) MIKE WELSH 6-2540

Persons to contact for questions about this draft (names and phone numbers) ↑

Describe the problem, including any helpful examples. How do you want to solve the problem?

PLEASE SEE ATTACHMENTS

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES ☒ NO

If yes:

Anyone who asks?

YES

☒ NO

Any legislator?

YES

☒ NO

Only the following persons _____

Do you consider this request urgent? YES ☒ NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

Authorize a public utility, at its option, to retain that portion of the public benefits energy conservation and efficiency and renewable resource transitional funding that is targeted to commercial, industrial and agricultural customers within the utility's service area in an amount determined by the PSC, first effective beginning July 1, 2005

1 secretary of administration, remain in effect and are transferred to the department
2 of public instruction. The department of public instruction shall carry out any
3 obligations under a transferred contract until the department of public instruction
4 modifies or rescinds the contract.

5 (e) *Rules and orders.* All rules promulgated by the technology for educational
6 achievement in Wisconsin board that are in effect on the effective date of this
7 paragraph remain in effect until their specified expiration date or until the
8 department of public instruction amends or repeals them. All orders issued by the
9 technology for educational achievement in Wisconsin board that are in effect on the
10 effective date of this paragraph remain in effect until their specified expiration date
11 or until the department of public instruction modifies or rescinds them.

12 (f) *Pending matters.* Any matter pending with the technology for educational
13 achievement in Wisconsin board on the effective date of this paragraph is transferred
14 to the department of public instruction, and all materials submitted to or actions
15 taken by the technology for educational achievement in Wisconsin board concerning
16 the pending matter are considered to have been submitted to or taken by the
17 department of public instruction.”.

START

* 18 **509.** Page 362, line 12: after that line insert: *

19 “(1v) ENERGY CONSERVATION.

20 (a) In this subsection:

21 1. “Commission” means the public service commission.

22 2. “Utility” has the meaning given in section 196.374 (1) (c) of the statutes.

23 (b) Notwithstanding the requirement under section 196.374 (3) of the statutes
24 for a utility to make specified contributions to the commission in a fiscal year of the

3071

1 amounts determined by the commission under section 196.374 (2) of the statutes, the
2 commission may allow a utility to retain, ~~until December 31, 2004,~~ a portion of the
3 amounts determined by the commission under section 196.374 (2) (b), (c), and (d) of
4 the statutes, instead of contributing the portion to the commission, if the commission
5 determines that the portion is attributable to energy conservation programs for
6 industrial, commercial, and agricultural customers in the utility's service area. If the
7 commission allows a utility to retain a portion under this paragraph, the utility must
8 contribute 1.75% of the portion to the commission for research and development for
9 energy conservation and efficiency and must contribute 4.5% of the portion to the
10 commission for renewable resource programs.

11 (1x) ^{END}HIRING FREEZE EXEMPTION. Notwithstanding any action of the governor or
12 the secretary of administration under section 16.505 (3) of the statutes before the
13 effective date of this subsection, the public service commission may fill 3.0 FTE PR
14 positions that are vacant on the effective date of this subsection, that are related to
15 the performance of environmental analyses and engineering reviews, that are
16 authorized to the commission under section 16.505 of the statutes, and that are
17 funded from the appropriation under section 20.155 (1) (g) of the statutes. If the
18 public service commission does not fill the positions by the first day of the 6th month
19 beginning after the effective date of this subsection, the commission shall, no later
20 than the first day of the 7th month beginning after the effective date of this
21 subsection, submit a report to the joint committee on finance of the legislature that
22 explains the reasons for not filling the positions.”.

23 **510.** Page 362, line 15: delete lines 15 to 18.

24 **511.** Page 362, line 18: after that line insert:



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3071/1

MDK:/.....

gs

D-NOTE

2003 BILL

B9

8/13

ger cat

inserts

- 1 AN ACT ~~/~~; relating to: contributions by electric and gas utilities to the utility
- 2 public benefits fund.

Analysis by the Legislative Reference Bureau

Under current law, certain electric and gas utilities are required to make contributions to the Public Service Commission (PSC) in each fiscal year. The PSC deposits the contributions in the utility public benefits fund (fund), which is used by the Department of Administration (DOA) to make grants for low-income assistance, energy conservation and efficiency, environmental research and development, and renewable resource programs. The amount that each utility must contribute to the PSC is the amount that the PSC determines that the utility spent in 1998 on its own programs that are similar to the programs awarded grants by DOA.

Under this bill, the PSC may allow a utility to retain a portion of the amount that it is required to contribute in each fiscal year under current law. However, the PSC may allow a utility to do so only if the PSC determines that the portion is attributable to energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area. Also, if the PSC allows a utility to retain such a portion, the utility must contribute 1.75% of the portion to the PSC, which the PSC must deposit in the fund for DOA to use for programs for research and development for energy conservation and efficiency. In addition, the utility must contribute 4.5% of the portion to the PSC for deposit in the fund for DOA to use for renewable resource programs.

BILL*INSERT 2-1*

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 196.374 (3) of the statutes is amended to read:

196.374 (3) In 2000, 2001 and 2002, the commission shall require each utility to spend a decreasing portion of the amount determined under sub. (2) on programs specified in sub. (2) and contribute the remaining portion of the amount to the commission for deposit in the fund. ~~In~~ Except as provided in sub. (3m), in each year after 2002, each utility shall contribute the entire amount determined under sub. (2) to the commission for deposit in the fund. The commission shall ensure in rate-making orders that a utility recovers from its ratepayers the amounts spent on programs or contributed to the fund under this subsection or retained under sub. (3m). The commission shall allow each utility the option of continuing to use, until January 1, 2002, the moneys that it has recovered under s. 196.374 (3), 1997 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats. The commission may allow each utility to spend additional moneys on the programs specified in sub. (2) if the utility otherwise complies with the requirements of this section and s. 16.957 (4).

History: 1983 a. 27; 1999 a. 9; 2001 a. 30.

SECTION 2. 196.374 (3m) of the statutes is created to read:

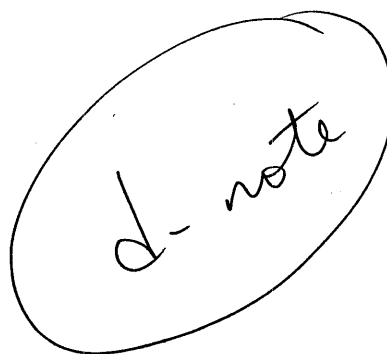
196.374 (3m) In each fiscal year, the commission may allow a utility to retain a portion of the amount determined under sub. (2) instead of contributing the entire amount to the commission, if the commission determines that the portion is attributable to energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area. If the commission allows a utility

BILL

1 to retain a portion under this subsection, the utility must contribute 1.75% of the
2 portion to the commission for deposit in the fund for programs for research and
3 development for energy conservation and efficiency and must contribute 4.5% of the
4 portion to the commission for deposit in the fund for renewable resource programs.

5

(END)



d-note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3071/2ins
MDK:.....

INSERT 2-1:

SECTION 1. 25.96 of the statutes is amended to read:

25.96 Utility public benefits fund. There is established a separate nonlapsible trust fund designated as the utility public benefits fund, consisting of deposits by the public service commission under s. 196.374 (3) and (3m), public benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under s. 16.957 (2) (c) 4. and (d) 2.

History: 1999 a. 9.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3071/1dn

MDK:/:....

gs

Representative Fitzgerald:

Please note that I made few change to the language on which this bill is based. ✓

First, I made it clear that, if the PSC allows a utility to retain a portion and contribute specified percentages of that portion to the PSC, then the PSC must deposit the percentages that are contributed into the utility public benefits fund. I think that is consistent with your intent. ✓

Also, I made it clear that a utility may recover from ratepayers the amount that it is allowed to retain. Again, I think this is consistent with your intent. ✓

Let me know if you need any changes to the bill.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3071/1dn
MDK:cjs:jf

August 8, 2003

Representative Fitzgerald:

Please note that I made few change to the language on which this bill is based.

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

NOTE

stamps

2003 BILL

also consists of
monthly fees paid by
utility customers
The fund

inserts

INSERT 1-3

- 1 AN ACT to amend 25.96 and 196.374 (3); and to create 196.374 (3m) of the
2 statutes; relating to contributions by electric and gas utilities to the utility
3 public benefits fund.

Analysis by the Legislative Reference Bureau

Under current law, certain electric and gas utilities are required to make contributions to the Public Service Commission (PSC) in each fiscal year. The PSC deposits the contributions in the utility public benefits fund (fund), which is used by the Department of Administration (DOA) to make grants for low-income assistance, energy conservation and efficiency, environmental research and development, and renewable resource programs. The amount that each utility must contribute to the PSC is the amount that the PSC determines that the utility spent in 1998 on its own programs that are similar to the programs awarded grants by DOA.

Under this bill, the PSC may allow a utility to retain a portion of the amount that it is required to contribute in each fiscal year under current law. However, the PSC may allow a utility to do so only if the PSC determines that the portion is ~~attributable to~~ energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area. Also, if the PSC allows a utility to retain such a portion, the utility must contribute 1.75% of the portion to the PSC, which the PSC must deposit in the fund for DOA to use for programs for research and development for energy conservation and efficiency. In addition, the utility must contribute 4.5% of the portion to the PSC for deposit in the fund for DOA to use for renewable resource programs.

used
by the
utility
for

INSERT A

INSERT B

BILL

INSERT 2-1

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 25.96 of the statutes is amended to read:

2 **25.96 Utility public benefits fund.** There is established a separate
3 nonlapsible trust fund designated as the utility public benefits fund, consisting of
4 deposits by the public service commission under s. 196.374 (3) and (3m), public
5 benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions
6 received under s. 16.957 (2) (c) 4. and (d) 2.

7 **SECTION 2.** 196.374 (3) of the statutes is amended to read:

8 196.374 (3) In 2000, 2001 and 2002, the commission shall require each utility
9 to spend a decreasing portion of the amount determined under sub. (2) on programs
10 specified in sub. (2) and contribute the remaining portion of the amount to the
11 commission for deposit in the fund. ~~In~~ Except as provided in sub. (3m), in each year
12 after 2002, each utility shall contribute the entire amount determined under sub. (2)
13 to the commission for deposit in the fund. The commission shall ensure in
14 rate-making orders that a utility recovers from its ratepayers the amounts spent on
15 programs or contributed to the fund under this subsection or retained under sub.
16 (3m). The commission shall allow each utility the option of continuing to use, until
17 January 1, 2002, the moneys that it has recovered under s. 196.374 (3), 1997 stats.,
18 to administer the programs that it has funded under s. 196.374 (1), 1997 stats. The
19 commission may allow each utility to spend additional moneys on the programs
20 specified in sub. (2) if the utility otherwise complies with the requirements of this
21 section and s. 16.957 (4).

BILL

used by the utility for ✓

1 **SECTION 3.** 196.374 (3m) of the statutes is created to read:

2 196.374 (3m) In each fiscal year, the commission may allow a utility to retain
3 a portion of the amount determined under sub. (2) instead of contributing the entire
4 amount to the commission, if the commission determines that the portion is
5 ~~attributable to~~ energy conservation programs for industrial, commercial, and
6 agricultural customers in the utility's service area. If the commission allows a utility
7 to retain a portion under this subsection, the utility must contribute 1.75% of the
8 portion to the commission for deposit in the fund for programs for research and
9 development for energy conservation and efficiency and must contribute 4.5% of the
10 portion to the commission for deposit in the fund for renewable resource programs.

11 (END)

INSERT 3-10

INSERT
3-6

SA ✓

2003 BILL

INSERT 1-3

- 1 ~~AN ACT to amend~~ 16.957 (2) (b) 1. (intro.), 16.957 (2) (c) 2. and 16.957 (3) (b); and/
 2 ~~to create~~ 16.957 (2m) of the statutes; ~~relating to~~ grants for energy
 3 conservation and other programs, extending the time limit for emergency rule
 4 procedures, and granting rule-making authority. *END of INSERT 1-3*

Analysis by the Legislative Reference Bureau

Under current law, certain electric and gas utilities must make specified contributions to the Public Service Commission (PSC) for deposit in the utility public benefits fund (fund) in each fiscal year. The fund also consists of monthly fees paid by electric utility customers. The fund is used by the Department of Administration (DOA) to make grants for low-income assistance programs, as well as for programs for energy conservation and efficiency, environmental research and development, and renewable resources (energy conservation and other programs).

~~This bill~~ requires the PSC to promulgate rules for the grants made by DOA from the fund for energy conservation and other programs. Under the bill, an applicant is not eligible for such a grant unless the applicant's proposal for the grant satisfies standards established in rules promulgated by the PSC. *END of INSERT 1-A*

INSERT 1-A

The bill also

INSERT 2-1

~~The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:~~

BILL

(INSERT 2-1 (cont'd))

1 16.957 (2) (b) 1. (intro.) Subject to subd. 2. and the rules promulgated under
2 sub. (2m), after holding a hearing, establish programs for awarding grants from the
3 appropriation under s. 20.505 (3) (s) for each of the following:

4 **SECTION 2.** 16.957 (2) (c) 2. of the statutes is amended to read:

5 16.957 (2) (c) 2. Requirements and procedures for applications for grants
6 awarded under programs established under par. (a) or (b) 1. The rules for grants
7 awarded under programs established under par. (b) 1. may not be inconsistent with
8 the rules promulgated by the commission under sub. (2m).

9 **SECTION 3.** 16.957 (2m) of the statutes is created to read:

10 16.957 (2m) COMMISSION RULES. The commission shall promulgate rules
11 establishing standards that a proposal must satisfy to be eligible for the department
12 to make a grant for the proposal under sub. (2) (b).

13 **SECTION 4.** 16.957 (3) (b) of the statutes is amended to read:

14 16.957 (3) (b) The department shall, on the basis of competitive bids, contract
15 with one or more nonstock, nonprofit corporations organized under ch. 181 to
16 administer the programs established under sub. (2) (b) 1., including soliciting
17 proposals, processing grant applications, selecting, based on criteria specified in
18 rules promulgated under sub. (2) (c) 2m. and the standards established in the rules
19 promulgated under sub. (2m), proposals for the department to make awards and
20 distributing grants to recipients.

END of INSERT 2-1

21 **SECTION 5. Nonstatutory provisions.**

22 (1) **EMERGENCY RULES.** Using the procedure under section 227.24 of the statutes,
23 the public service commission shall promulgate as emergency rules the rules
24 required under section 16.957 (2m) of the statutes, as created by this act.
25 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules

INSERT
3-10

BILL

INSEAT 3-10 (cont'd):

1 promulgated under this subsection may remain in effect until the date on which the
2 permanent rules required under section 16.957 (2m) of the statutes, as created by
3 this act, take effect. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the
4 statutes, the public service commission is not required to provide evidence that
5 promulgating rules under this subsection as emergency rules is necessary for the
6 preservation of the public peace, health, safety, or welfare and is not required to
7 provide a finding of emergency for the rules promulgated under this subsection.

SECTION 6. Initial applicability.

(b)

and (c) 2.

9 (1) The treatment of section 16.957 (2) (b) 1. (intro.) of the statutes first applies
10 to grants that are awarded on the effective date of the rules promulgated under
11 SECTION 5 (1) of this act.

SECTION 7. Effective date.

12 (1) This act takes effect on the first day of the 7th month after publication.

(END)

END of INSEAT 3-10

check
autoresThe treatment of sections
16.957 (2) 1. (intro.), (2m), and
(3) (b)
of the
statutes

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3071/2ins2
MDK:.....

1

INSERT 1B:

2

Also, the programs must comply with standards established in rules promulgated by
the PSC. ✓

3

4

INSERT 3-6:

5

and that the programs comply with standards established in rules promulgated by
the commission ✓

6

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3071/2dn

MDK:A:....

js

*and also requires the
PSC to promulgate
rules on energy
conservation
programs
under
S. 196.374
(3m)*

Rep. Fitzgerald:

This version incorporates the provisions of LRB-2867/1.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3071/2dn
MDK:cjs:rs

August 21, 2003

Rep. Fitzgerald:

This version incorporates the provisions of LRB-2867/1 and also requires the PSC to promulgate rules on energy conservation programs under s. 196.374 (3m).

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Welsh, Mike
Sent: Wednesday, September 03, 2003 2:51 PM
To: Kunkel, Mark
Subject: LRB 3071/2

Mark,

Please draft an amendment to LRB 3071/2 that would do the following:

- Clarify the standards the PSC must establish for utility and DOA energy conservation programs under the bill must include, but not be limited to:
 1. Economic criteria based on a return on investment of three years or less for energy conservation programs; and
 2. An annual energy savings target (megawatts saved) for utility energy conservation programs.

If you have any questions, please call (6-2540).

Thanks,

Mike